

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JUAN NUNEZ, a/k/a Johnny,
vs
Petitioner,

UNITED STATES OF AMERICA,
Respondent.

APPEARANCES:

JUAN NUNEZ
10032-052
Petitioner, Pro Se
FCI Allenwood
P.O. Box 2500
White Deer, PA 17887

HON. GLENN T. SUDDABY
United States Attorney
Attorney for Respondent
Northern District of New York
P. O. Box 7198
100 South Clinton Street
Syracuse, New York 13261-5165

DAVID N. HURD
United States District Judge

OF COUNSEL:

PAUL D. SILVER, ESQ.
Assistant U.S. Attorney

ORDER

Petitioner filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. (Docket No. 1). Petitioner filed an amended and supplemental brief. (Docket No. 7). The Government filed a Memorandum of Law in opposition. (Docket No. 15). Petitioner filed a Traverse. (Docket No. 17). The Government filed a letter withdrawing its

U. S. DISTRICT COURT
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procedural objections to the petitioner. (Docket No. 18). Petitioner filed an addendum in support of traverse. (Docket No. 19).

The recent Supreme Court cases regarding sentencing are not retroactive to cases upon collateral review. The petitioner's ineffective assistance of counsel claim has no merit.

Therefore, the petition is DISMISSED and the Clerk is directed to close the file.

IT IS SO ORDERED.


United States District Court

Dated: May 3, 2005
Utica, New York.